

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: ETHICON, INC.)
PELVIC REPAIR SYSTEMS)
PRODUCTS LIABILITY LITIGATION)

MDL NO. 2327

PRETRIAL ORDER # _____
(ORDER ESTABLISHING MCEWEN LAW FIRM
SETTLEMENT SUBACCOUNT)

Pending is a Stipulated Motion to Establish Qualified Settlement Fund Subaccount, filed January 29, 2019 [ECF No. ____]. Upon the Stipulated Motion of Jeffrey M. Kuntz with Wagstaff & Cartmell, Damon Ellis and Bernard Layne, III with Mani Ellis and Layne, and Gregory N. McEwen with McEwen Law Firm, Ltd., Plaintiffs' Counsel in this matter, this Court **GRANTS** the Motion and issues the following Order establishing a Qualified Settlement Fund regarding the resolution of claims brought by Plaintiffs against Defendant Ethicon, Inc. ("Ethicon") and relating to Ethicon pelvic mesh products.

1. Resolution of Pelvic Mesh Product Claims. Plaintiffs' Counsel and Ethicon have entered into a Confidential master Settlement Agreement to resolve certain pelvic mesh product claims of certain Plaintiffs represented by the undersigned.
2. Approval of Fund. The Court approves the establishment of a Qualified Settlement Fund to be called the McEwen Law Firm Settlement Subaccount for Federal tax purposes pursuant to Internal Revenue Code §1.468B-1. The Fund shall be utilized for the payment of Ethicon claimant attorney fees to Attorney McEwen and referring attorneys.
3. Fund Administrator. Attorney Terry D. Turner, Jr. of the law firm Gentle, Turner, Sexton & Harbison, LLC, 501 Riverchase Parkway East, Hoover, Alabama

35244, shall serve as the Fund Administrator. Upon the dissolution or bankruptcy of attorney Terry D. Turner, Jr., his appointment as Fund Administrator shall terminate and the undersigned shall nominate a successor Fund Administrator. The undersigned shall seek approval from the Court regarding his proposed successor Fund Administrator.

4. Powers of Fund Administrator. The Fund Administrator shall be authorized to effect qualified assignments of any resulting structured settlement liability within the meaning of Section 130(c) of the Internal Revenue Code to the qualified assignee; to distribute all attorney fees and litigation expenses, as well as with those persons who are represented by Attorney McEwen in future settlements, consistent with their existing contingency fee contracts and the terms of the Confidential Master Settlement Agreement; to be paid reasonable fees and expenses of Fund Administration; and, upon final distribution of all monies paid into the Fund, to take appropriate steps to wind down and dissolve the Fund and thereafter being discharged from any further responsibility with respect to the Fund. If there are any disputes about either party's performance under the Agreement, those disputes shall be handled in accordance with the dispute resolution procedures in the Confidential Master Settlement Agreement, and shall not be brought to this Court, with the exception of any claim that the Fund Administrator has not complied with Paragraph 10 of the Motion.

The Court **DIRECTS** the Clerk to file a copy of this Order in 2:12-md-2327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district *where applicable*, which includes counsel in all member cases up to and including civil

action number 2:16-cv-12363. In cases subsequently filed in this district, a copy of the most recent pretrial Order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the Complaint. In cases subsequently removed or transferred to this Court, a copy of the most recent pretrial Order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial Orders previously entered by the Court. The Orders may be accessed through the CM/ECF system or the Court's website at www.wvsd.uscourts.gov.

ENTER: _____, 2019

JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE